

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

MAY 25 2001



Employer Identification Number:
[REDACTED]

Person to Contact I.D. Number:
[REDACTED]

Contact Telephone Numbers:

[REDACTED] Phone
[REDACTED] FAX

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts upon which it is based are explained below.

Your organization was formed on [REDACTED] under the laws of [REDACTED]. The organization's articles of incorporation and its bylaws describe the purpose for which it was formed as follows:

- a. To bring together active cancer clinicians and investigators for the advancement of clinical and basic research in [REDACTED]
- b. Findings on the research will be disseminated for the continuing education and professional fellowship of [REDACTED]
- c. The corporation will further use these findings to extend and promote benefits of advancements in [REDACTED] to patients with [REDACTED] whereby they will be given the highest possible standard of [REDACTED].

The organization describes its planned activities to "include organizing [REDACTED] currently living in the United States into an association to conduct educational activities for their members in the field of [REDACTED]. The organization has met annually to educate their members and discuss and disseminate information pertaining to the field of [REDACTED]. The organization's annual meeting is the organization's only past and planned activity. As the organization increases its membership base, additional activities of the organization are anticipated, but no current activities are currently planned.

The annual meeting is initiated, planned and conducted by the board of directors. All board members are volunteers and each member of the board spends approximately twenty hours per month related to planning the organization's annual meeting."

The organization's statements of revenue and expenditures indicate that it derives its income from membership assessments and investment income. Its expenditures consist of office expense, supplies, professional fees, telephone and miscellaneous expenses. Membership in the organization is extended to [REDACTED] classes including [REDACTED].

The organization requires members to be employed in [REDACTED] and dues are \$ [REDACTED] annually or \$ [REDACTED] for a lifetime membership. The organization indicates that it does not distribute promotional material to attract new members but rather attracts members by "word of mouth".

Section 501(c)(3) of the Internal Revenue Code provides for the exemption of organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income tax regulations provides that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational test or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest. Thus, in order to meet the requirements of this subparagraph, an organization must establish that it is not organized or operated for the benefit of private interests; such as designated individuals, the founder of the organization or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve a private interest.

Revenue Ruling 71-504 C.B. 1971-2, 231 describes a city medical society created for the purpose of promoting the art of medicine, the betterment of public health and the unity, harmony and welfare of members of the medical profession. The organization, while conducting some charitable and educational programs, conducted activities that were directed primarily at the promotion of the medical profession and thus was considered to further the common business purpose of its members. The organization was not eligible for reclassification from section 501(c)(6) to section 501(c)(3).

Likewise, in Revenue Ruling 71-505 C.B. 1971-2, 231 a city bar association seeking reclassification under section 501(c)(3) was held not to qualify under section 501(c)(3). It too, conducted some activities that were deemed to be "educational" however, the organization's primary activity was directed at the promotion and protection of the practice of law and thus furthered the common business purpose of its members.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In your response to our request for additional information, you stated that the organization's annual meeting lasts approximately four hours and is held in conjunction with the national meeting of the [REDACTED]. You indicate the conference lasts [REDACTED] and presents seminars on recent developments in [REDACTED] and changing trends in [REDACTED]. The conference charges appropriate registration fees sufficient to cover the expense to organize such meetings. Academic credit is not available for attendance at such conferences.

You further state that the conference's agenda typically includes an annual report of the organization's activities by the president, the secretary's report about membership issues and the treasurer's report about the financial condition of the organization. [REDACTED] speakers, on new developments in [REDACTED] usually follow the annual reports. After this, questions are usually raised by the members.

Our review of the information indicates that your organization met the organizational test required for exemption under section 501(c)(3) however, you have not established that you are operated exclusively for charitable or other stated purposes under section 501(c)(3). The regulations expand on the requirements for satisfaction of the operational test. The key requirement is that an organization be operated exclusively for one or more exempt purposes.

To determine whether this test is satisfied, section 1.501(c)(3)-1(c)(1) of the regulations directs the Service to determine if an organization engages primarily in activities that accomplish one or more exempt purposes. Section 1.501(c)(3)-1(d)(1)(ii) of the regulations expands on the concept of exclusivity by providing that an organization is not operated exclusively to further exempt purposes unless it serves a public rather than a private interest.

In determining whether a purpose is educational, the court's interpretation concludes that there has to be more than a mere conveyance of information or providing of instruction. The purpose must provide instruction or training that is intended to enable the individual to improve and develop his capabilities or to instruct the public on subjects useful to the individual and beneficial to the community. However, when the instruction or training is not directed toward a broad class of individuals or the public at large, it will not be deemed to be "educational" within the meaning of section 501(c)(3) of the Code.

The element of public benefit is a necessary condition of legal charity. If the purposes or operations of an organization are such that a private individual who is not a member of a charitable class receives other than an insubstantial or indirect economic benefit therefrom, such activities are deemed repugnant to the idea of an exclusively charitable purpose.

You indicated that the organization's instruction improves and develops members' medical skills. You believe this, in turn, assists in better educating patients about new advancements in clinical research in [REDACTED] and providing the highest possible standard of care to [REDACTED]. Such benefits are considered to be incidental, the primary benefit of which is to further the common business purpose of your members. Since the benefits in this case are primarily limited to the members of your organization, it does not constitute a charitable or educational purpose within the meaning of section 501(c)(3).

Based on the evidence submitted, we have determined that you have not demonstrated that you are operated exclusively for charitable or other purposes described in section 501(c)(3) of the Code. Therefore you are not entitled to exemption under section 501(c)(3).

As a result of this determination you are required to file Federal Income tax returns on Form 1120. Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the code, a copy of this letter will be sent to the appropriate State officials.

If you agree with this determination, please sign and date the enclosed form 6018, Consent to Proposed Adverse Action.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you are to be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that... "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Internal Revenue Service".

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Steven J. Miller
Director, Exempt Organizations

Enclosure(s)
Publication 892
Form 6018

Form 6018
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

MAY 25 2001

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501 (c) (3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501 (c)() to 501 (c) (), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date

Cat. No. 430000

Form 6018 (Rev. 8-1983)